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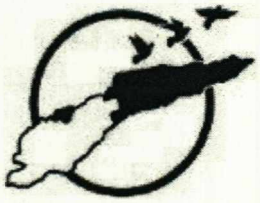

East Timor Human Rights Centre

HUMAN RIGHTS VIOLATIONS AT BECORA PRISON

DILI, EAST TIMOR

27 February 1997 Ref: SPR1/97

INTRODUCTION

Becora prison is located in the eastern suburbs of Dili and has approximately 257[1] inmates, some of whom are political prisoners. The East Timor Human Rights Centre (ETHRC) has received several reports from prisoners in Becora prison about grave violations of human rights which were allegedly perpetrated against East Timorese prisoners between September 1995 and February 1996. Many of the alleged violations were also detailed in a letter of protest written by East Timorese prisoners in Becora to the Minister for Justice of Indonesia.[2]

The reports include details of three riots which took place at the prison during that period, and information about prisoners who were tortured, including the names of some of the perpetrators of the tortures who are members of the prison staff. In some cases, there appear to be no particular reasons why the prisoners were targeted for torture. The reports also document religious discrimination and intolerance perpetrated against East Timorese prisoners.

The alleged violations were perpetrated not only in breach of Indonesian law, but also in breach of accepted international standards for treatment of prisoners, including some international standards to which Indonesia has subscribed.

INDONESIAN AND INTERNATIONAL STANDARDS

The Ministry of Justice of Indonesia has stated that the aim of the correctional system:

> "is not to be a system of punishment and it is to ban or give no active place to any form of harsh deterrents or corporal punishment. Instead, the system is given the task to rescue and educate offenders for their successful reintegration into the community...[It] is not a system of punishment or retribution. It is a system that

[1] There were 257 prisoners as at 30 Jan 1996 (Reuters, Jakarta, 30 January 1996).

[2] The letter was dated 1 April 1996.

> concentrates on treatment to fully assist offenders in the process of their reintegration into the community."[3]

Consistent with the aim stated by the Ministry of Justice, prisoners are given certain rights under Indonesian law. Article 14 of Law No.12 of 1995 entitled "Socialisation" (Pemasyarakatan) relating to the prison system in Indonesia, states:

"(1) Prisoners have the right to:

a. carry out worship in accordance with their religion or beliefs;
b. receive treatment, both spiritual and physical;
c. receive training and education;
d. have access to healthcare and proper food;
e. express complaints;
f. have access to reading materials and other mass media which is not prohibited;
g. receive payments or bonuses for work done;
h. have visits by family members, legal advisers or certain other persons;
i. apply for remissions of sentence;
j. opportunities for assimilation, including leave to visit their families;
k. apply for conditional release;
l. leave prior to release;
m. other rights in accordance with other relevant legal regulations."

Indonesia has also subscribed to the *United Nations Standard Minimum Rules for the Treatment of Prisoners* ("UN Standard Minimum Rules") which provide detailed guidelines in relation to punishment within the prison system:

> "Section 30(2): No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case."

> "Section 31: Corporal punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."

A 1990 Asia Watch report on Indonesia assessed Indonesia's prison system and stated that *"The Director General of the prison system has formally abolished corporal punishment, handcuffs, and the practice of reducing meals to only rice as disciplinary measures, but in practice, these measures continue.....physical abuse is a major method of punishment."*[4]

In his 1992 report, the UN Special Rapporteur on Torture concluded that *"In areas which are deemed to be unstable [including EastTimor]……torture is said to be practised rather routinely……"*[5]

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[3] Tuned to the Rhythms of Society: The Correctional System of Indonesia , Directorate General of Corrections, Ministry of Justice (1980) pp1,5.

[4] Prison Conditions in Indonesia , An Asia Watch Report, 1990, page 31.

[5] E/CN.4/1992/17/Add.1, paragraph 73.

The UN Commission on Human Rights made a strong resolution in 1993[6] encouraging Indonesia to take the necessary steps to implement the recommendations presented by the Special Rapporteur on Torture in his report. In 1994, Amnesty International noted that the Indonesian Government's decision to invite the Special Rapporteur on Torture to visit Indonesia and East Timor in 1992 was a positive initiative but noted that the government had failed to act upon the Special Rapporteur's recommendations. "More important, the failure to act has meant the root causes of torture and ill-treatment, as identified by the Special Rapporteur, have yet to be addressed.[7]

By 1995, there had been no improvement and Amnesty International concluded that while torture and ill-treatment are prohibited under the Indonesian Criminal Code (KUHP), the Code of Criminal Procedure (KUHAP) and by various ministerial regulations, "these laws and regulations have not prevented torture and ill-treatment or provided effective avenues for redress. Nor have they been effective in ensuring that the perpetrators are brought promptly to justice."[8]

As documented in this report, East Timorese prisoners continue to be subjected to systematic torture, indicating that the recommendations of the Special Rapporteur on Torture and the standards for treatment of prisoners under International and Indonesian law, have largely been ignored by the Indonesian authorities.

TORTURE, RIOTS AND DISCRIMINATION

In January 1996, violence erupted in Becora prison as a result of increasing frustration and anger among the East Timorese prisoners and detainees.[9] This had been building for a period of over two years because of systematic torture and ill-treatment of East Timorese prisoners, discrimination against them, and poor prison conditions.[10]

On 15 September 1994, at an opening ceremony for a prisoners' skills training course attended by the Chairperson for the Department of Culture & Education and the Chairperson for Social Services, a prison officer named Sirajudin openly beat a prisoner named Domingus Pereira. The reason for the beating in not known.

At about 8.00pm on 1 April 1995, Jose Antonio Belo, Jose Pinto, Alexandrino da Costa, Ipolito da Costa and Marcelino Afonso Ribeiro, who were singing in their cell, were taken away and tortured, supposedly for their singing. The officers who carried out the torture were Yohanis

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[6] Resolution 1993/97, paragraph 8.

[7] Amnesty International, Indonesia & East Timor: Fact and Fiction, Implementing the Recommendations of the UN Commission on Human Rights , 16 February 1994, page 12.

[8] Amnesty International, Indonesia & East Timor: Political Prisoners and the "Rule of Law" , January 1995, page 11.

[9] "prisoners" being those who have already been tried and sentenced; "detainees" being those who have not yet been tried and charged i.e. are being detained for questioning. In this document, the term "prisoners" will be used to cover both.

[10] Amnesty International has previously published a letter by East Timorese political prisoners Becora prison detailing the poor conditions in the prison, East Timor: Who is to Blame? Statement Before the UN Special Committee on Decolonization , 13 July 1994.

Jeflaun, Gaban Ratu, Inasiu Taiberek, Kamelus and Embang M Zain. They were tortured again on 3 April 1995 by officers Embang M Zain, Yohanis Jeflaun, Samaludin Bogra, Donatus Jemali and Nimrot Dima. When they returned to their cells they were observed to be black-and-blue from the beatings they received.

On 15 September 1995, Henrique Belmiro da Costa, who was ill, was taken from his cell and tortured. The reason for this torture is not known.

On 16 September 1995, Pedro da Costa, who had failed to make his regular report to the prison officers because he was ill, was taken from his cell and tortured by a prison officer named Melki Sandi. Pedro da Costa had been imprisoned for his involvement in the 9 January 1995 demonstration at the University of East Timor (UNTIM). Following the torture of Pedro da Costa, prisoners staged a peaceful protest that day outside the Security Office of Becora prison. Their demands included that prison officials cease the torture of prisoners. Three prisoners, Jose Antonio Belo, Oktavianus da Conceçao and Pedro da Costa, were immediately tortured and put in isolation for one day and one night. They were tortured by Nurudin Musa, Yohanis Jeflaun, Embang M Zain, Nimrot Dima and others. It was reported that prisoners started rioting following the incident, but the prisoners themselves quickly acted to calm the rioting. The three prisoners were released from isolation as a result of the pressure from the other prisoners.

In December 1995, Aleixo Cobra, Jose Manuel, Bobi Xavier and other prisoners were tortured by the same officers who were responsible for the previous tortures. East Timorese prisoners claim that these officers are all members of a special torture unit.

On 24 December 1995, security officers did not allow East Timorese prisoners to attend the religious ceremony to celebrate Christmas and New Year in the prison chapel. In previous years, all Catholic and Protestant prisoners were allowed to attend Christmas and New Year celebrations. According to the Becora prisoners, the chairperson of Becora prison, Fransiskus Subani SH, said to the prisoners: *"Do you really know Lord Jesus Christ was born on 24 December? Aren't Christmas and New Year celebrations only a promotion of those "do-gooders" for God?"* The prisoners were offended and hurt by the comments, and frustrated by the blatant discrimination against Christian prisoners. The incident is clearly a contravention of Article 14(1)(a) of Law No.12 of 1995 which gives prisoners the right to carry out worship in a accordance with their religion or beliefs.

The second riot occurred on 1 January 1996, this time following the torture of Mario Pinto Ximenes Da Costa. He was tortured for protesting when his relatives were refused permission to visit because they had forgotten to bring their identity cards (known as "KTP" *kartu pengenalan*). In his protest he stated that people who visit Indonesian prisoners are not required to produce their KTP's to gain admission.

Rioting prisoners broke doors and windows and tried to burn the prison down. The riot was more serious than the first but rioters calmed down following requests from the clergy of the Catholic Church who were visiting the prison.

On 21 January 1996, all East Timorese prisoners staged a peaceful protest against the Indonesian government and its prison system in East Timor. The protested against the discrimination which they had observed to exist between the Catholics and Protestants on the one hand and the Muslims on other hand. The prison officers allowed Muslim prisoners to celebrate *Idulfitri* day and for 40 days and nights, the Muslim prisoners were allowed to go to the *Musholla* (Muslim prayer room) at any time. On the other hand, Catholic and Protestant prisoners were not allowed to gather in the chapel to celebrate Christmas and New Year. The specific demands were:

- that there should be respect for the East Timorese people's right to life and to practise their own religion;
- that there should be respect for the East Timorese people's culture;
- that there should be improvements to facilities such as food, accommodation, clothing, visits, medicine and mass media information;
- that the Chairperson of Becora Prison, Fransiskus Subani, take responsibility for the discrimination experienced by the Catholic and Protestant prisoners on 24 December 1995;
- that they wished to protest that the prison staff had ignored them when they wished to remind them of the second and fifth principles of the Pancasila[11]. These principles are first, a just and civilized humanity, and second, social justice for all.

The most serious riot occurred on 30 January 1996 following the torture of Alexandrino Da Costa. Da Costa was returning from hospital after a previous incident of torture and other prisoners tried unsuccessfully to protect him from further torture. He was tortured after being accused of visiting two other prisoners, namely Jose Manuel and Aleixo Cobra. Aware of the risk to their own lives, prisoners rioted, throwing stones at the buildings and at the prison guards and setting fire to property such as motorcycles. The prisoners became more angry and riotous when they saw that some fellow prisoners had been shot by the prison guards. The prisoners retreated into the prison blocks when they realised there was nowhere to hide or to escape to, but the shooting continued for about an hour. One East Timorese prisoner witnessed the fatal shooting of Armindo da Silva Martins and five other prisoners are believed to have been shot.

According to East Timorese reports, the prison officers were supported by members of the mobile police brigade (BRIMOB), the military police (PM), the district military command (KODIM), the sub-district military command (KORAMIL), the special intelligence unit (SGI), the sub-regional military command (KOREM) and battalion 747. The authorities were armed with guns and other weapons such as spades, pipes, sticks and tear gas.

According to Benny Mathias, head of the Ministry of Justice's office in Dili, about 100 of the 257 inmates were involved. "The guards, of which there were only nine on duty were forced to shoot from above them."[12] Mathias confirmed that Armindo da Silva Martins, 29, was shot dead by a prison security officer after allegedly trying to grab a gun from a guard.[13] According to one report received by the ETHRC, the rioting prisoners were taken to a "torture camp" where they were

[11] The Pancasila is Indonesia's state ideology.

[12] Reuters, Jakarta, 30 January 1996

[13] United Press International, 30 January 1996.

tortured for about one hour. Some lost consciousness before they were taken to the torture camp as the had already been subjected to stabbing, beating, punching, kicking, beating with gun butts. It is believed the torture stopped upon the arrival of Bishop Belo and members of the International Red Cross. Prison officers cleaned up the spilt blood and sent the seriously injured to the prison clinic before access was allowed to members of the ICRC who were allowed to visit the prisoners. According to the East Timorese prisoners, representatives of the ICRC were allowed to visit Becora on the day of the riot and also one month after the riots. They provided some medical assistance.

Article 58 of Indonesia's Criminal Procedure Code (KUHAP) clearly states that detainees have a right to have access to medical professionals, however, this was denied to most of the prisoners. In total, fifty-three people were injured during the riot, only seven of whom were sent to hospital for medical treatment, including two of the shooting victims. These prisoners were moved from the prison clinic to hospital, only upon the insistence of the ICRC. Another forty-six injured people had to remain at the prison and did not receive medical treatment. One prisoner who had been shot had to seek the assistance of another prisoner to remove an embedded bullet.

On 31 January 1996, prisoners who were already injured after being tortured on 30 January 1995 in relation to the riots, were taken away from their cells and tortured again because they were suspected of destroying property and throwing things during the protest. In February, the torture continued: at around midnight on 14 February1996, two prisoners, Ipolito da Silva and Pedro Almeida, were taken away and tortured.[14]

During the period of the riots the political prisoners were moved to Block II which was then named the "East Timor" block. They were held there from 11 December 1995 to 5 February 1996. All prisoners in blocks I to VI were interrogated and tortured by security officers.[15] As a result of the tortures, two prisoners named Abrao Sanches and Maubere, are reported to have become seriously mentally ill.[16]

CONCLUSIONS AND RECOMMENDATIONS

Many perpetrators of human rights violations, including the perpetrators of torture against East Timorese prisoners, continue to enjoy impunity, despite overwhelming evidence that East Timorese prisoners are systematically subjected to torture and ill-treatment.

The violations which are alleged to have occurred in Becora prison between September 1995 and February 1996 are serious violations of fundamental rights which are enshrined not only under International Law but also under Indonesian law. Allegations that officials have committed or condoned torture against prisoners should be thoroughly and impartially investigated and those believed responsible for the violations tried by a civilian court, with due regard to legal safeguards, and punished in accordance with the severity of their crimes.

[14] ETHRC sources.

[15] ETHRC sources.

[16] ETHRC sources.

It is alleged by East Timorese prisoners in Becora prison that the following members of the prison staff are the perpetrators of human rights violations:

	Alleged Perpetrator	**Position**	**Alleged Violation**
1.	Sirajudin	Prison officer	Physical assault
2.	Yohanis Jeflaun, staf KPLP	Staff, KPLP	Torture
3.	Gaban Ratu, petugas penjagaan	Security guard	Torture
4.	Inasiu Taiberek, petugas penjagaan	Security guard	Torture
5.	Kamelus, petugas penjagaan	Security guard	Torture
6.	Samaludin Bogra BE IP, staf KPLP	Staff, KPLP	Torture
7.	Donatus Jemali, anggota jaga	Security guard	Torture
8.	Nimrot Dima, anggota jaga	Security guard	Torture
9.	Melki Sandi	Prison officer	Torture
10.	Embang M. Zain, Ka. KPLP	Head of KPLP	Torture
11.	Nurudin Musa BE. IP., Ka. Tatib.	Head of security section	Torture
12.	Fransiskus Subani SH, KALAPAS	Head of Becora prison	Condoned Torture Religious intolerance
13.	I Putu Yusta Surya SH, Ka Tu	?	Condoning Torture
14.	Pither Mengkepe Ka. Keg, Kerja	?	Condoning Torture

The East Timor Human Rights Centre calls on the Indonesian government to:

1. Ensure that all personnel in Becora prison and other prisons in East Timor immediately cease all acts of torture and ill-treatment of East Timorese prisoners.

2. Ensure that all personnel in Becora prison and other prisons in East Timor immediately cease all acts of discrimination against East Timorese prisoners on the basis of their religion or ethnic origin.

3. Guarantee that the rights of prisoners will be respected and upheld. Their rights are recognised under Indonesian law (Article 14 of Law No.12 of 1995) and in the United Nations Standard Minimum Rules for the Treatment of Prisoners to which Indonesia has subscribed.

4. Establish a mechanism through which allegations of torture of prisoners can be thoroughly and impartially investigated, and ensure that those believed responsible for the violations are tried by a civilian court, with due regard to legal safeguards, and punished in accordance with the severity of their crimes.

5. Conduct a full and impartial inquiry into the allegations relating to the Extra-judicial Execution of Armindo da Silva Martins during the riot in Becora prison on 30 January 1996, prosecuting those found responsible to the fullest extent of the law.

6. Conduct a full and impartial inquiry into the allegations of torture and ill-treatment of prisoners in Becora prison, prosecuting those found responsible to the fullest extent of the law.

7. Conduct a full and impartial inquiry into the allegations of religious intolerance and religious discrimination against East Timorese prisoners, prosecuting those found responsible to the fullest extent of the law.

8. Prohibit explicitly by law all forms of torture and other forms of cruel, inhuman or degrading treatment or punishment and ensure that all such acts are recognized as criminal offences, punishable by penalties which reflect the seriousness of the crimes.

APPENDIX 1: POLITICAL PRISONERS DETAINED AT BECORA PRISON AS AT 31 DECEMBER 1996:

No	Name	Background	Detained from:	Reasons for detention
1	Hendrique Belmiro da Costa	Born in Viqueque on 19.04.52, resident of Bairo Pite, Dili.	11 August 1995	Article 106 of KUHP for involvement in clandestine movement for a free East Timor. Sentenced to 4 years imprisonment.
2	Matias Gouveia Duarte	Born in Viqueque on 24.02.51, resident of Desa Kuluhan, East Dili.	4 February 1995	As for Hendrique Belmiro.
3	Antonio Luis Soares	Born in Manakuto on 10.10.69, resident of Bidau Lecidere, Dili.	27 August 1996	Article 104 of KUHP for involvement in clandestine movement. Sentenced to imprisonment until 30 December 1997.
4	Afonso G Vieira	Born in Aileu on 25 April 1975, resident of Baire Pite, Dili.	27 August 1996	As for Antontio Soares. Imprisonment until 27 June 1997.
5	Celestino Propolio da Silva	Born in Ossu, Viqueque, aged 26, resident of Desa Bemori, Dili.	7 February 1996	Article 154 of KUHP for involvement in demonstration at the Balide Seminary on 3 February 1996. Sentenced to one year imprisonment.
6	Eugino da Costa	Born in Ossu on 05.08.74, resident of Santa Cruz, Dili.	7 February 1996	As for Celestino Propolio.
7	Calistio Lake	Born in Ossu on 25.01.76, resident of Bemori, Dili.	3 Feburary 1996	As for Celestino Propolio.
8	Marshal da Silva Ximenes	Born in Ossu on 05.01.75, resident of Santa Cruz, Dili.	7 February 1996	As for Celestino Propolio.
9	Antonio F dos Reis	Born in Dili on 21.02.73, resident of Bemori, Dili.	3 February 1996	As for Celestino Propolio.
10	Marito Ximenes	Born in Dili on 16.11.76, resident of Santa Cruz, Dili.	3 February 1996	As for Celestino Propolio.
11	Hipolito da Silva	Born in Ossu on 07.04.79, resident of Matadouro.	9 January 1995	Article 154 of KUHP for involvement in demonstration at University of East Timor on 9 January 1995. Sentenced to 2 years and 2 months imprisonment.
12	Angelo de Almeida	Born in Dili on 14 July 1967, married, resident of Santa Cruz.	5 December 1995	Article 106 of KUHP for involvement in clandestine movement, arrested during visit to East Timor by Head of the UN Commission for Human Rights
13	Jose Manuel Simoes	Born in Dili on 11.08.62, married, resident of Santa Cruz, Dili.		Article 106 of KUHP for involvement in clandestine liberation movement. Sentenced to 18 months imprisonment.
14	Julio Martins	Born in Dili on 26.07.70, married, resident of Santa Cruz, Dili.		As for Jose Manuel Simoes.
15	Luis de Carvalho	Born in Viqueque on 15.04.74, single, resident of Comoro, Dili.		As for Jose Manuel Simoes.
16	Agilio JE da Costa	Born in Soibada on 19.08.59, married, resident of Soibada.		As for Jose Manuel Simoes.
17	Celestino Brito	Born in Uato-Lari on 10.07.70, resident of Bario Pite, Dili.		Detained for involvement in incident involving the lowering of the Indonesian flag at Fatumeta on 18 August 1996.
18	Joao do Rosario Pires	Born in Manutato on 08.07.72, single, resident of Aiteas Manatuto.		Awaiting trial for alleged involvement in demonstration at the offices of the Bishop's Diocese in Dili during a press conference concerning Bishop Belo's controversial interview with Der Spiegel.